



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 5, 1998

Ms. Mary Keller  
Senior Associate Commissioner  
Legal and Compliance, MC 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR98-0351

Dear Ms. Keller:

You have asked us to reconsider our decision in Open Records Letter Nos. 97-1710 (1997) and 97-2435 (1997). We assigned your request for reconsideration ID# 112640.

The Department of Insurance (the "department") received a request for information regarding Prudential Insurance Company. In both Open Records Letter Nos. 97-1710 (1997) and 97-2435 (1997) this office concluded that the department could not withhold documents the department obtained in connection with a case filed in the United States District Court of New Jersey.

You re-assert to this office that section 552.107(2) is applicable in this instance. Section 552.107(2) provides that information is excepted from disclosure if "a court by order has prohibited disclosure of the information." You submitted to this office a "Stipulation of Confidentiality" in which the department agreed to maintain documents as confidential pursuant to a stipulation and pretrial order signed by a United States District Judge in New Jersey. You state that the department "is bound by the Court order as a result of entering into the stipulation of confidentiality, which was essential for [the department] to do to fulfill its regulatory duties." It is not a proper function of the opinion process to attempt to determine the court's intent in the pretrial order. Open Records Decision No. 560 (1990) at 3. As we understand that the department is subject to the court's jurisdiction as a party to the ongoing litigation, the proper authority to determine access to the requested information is the forum court. Attorney General Opinions JM-287 (1984); 0-1847 (1940); *see also* Open Records

Decision No. 415 (1984). Open Records Letter Nos. 97-1710 (1997) and 97-2435 (1997) are overruled to the extent they considered the applicability of the court order to the requested information.

If you have questions about this ruling, please contact our office.

Yours very truly,



Sandra L. Coaxum, C.P.A.  
Chief, Open Records Division

SLC/LRD/rho

Ref.: ID# 112640

Enclosures: Submitted documents (mailed separately via Inter-Agency)

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